

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Gene L. and Kathleen H. Needles,
Petitioners-Appellants,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-91-0003
Parcel No. 05-000-15-0280

On April 8, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Gene and Kathleen Needles were self-represented. County Attorney Jon Criswell is counsel for the Board of Review. County Assessor Brian Arnold represented it at hearing. Both parties submitted evidence. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Gene and Kathleen Needles are the owners of property located at 10849 Cleveland Trail, Norwalk, Iowa. The real estate was classified residential and valued at \$248,700, representing \$129,800 in land value and \$118,900 in improvement value for the January 1, 2012, assessment. There was no change in the assessment from 2011. However, the Needles applied for and were granted a forest reserve exemption for 38 acres, which resulted in a \$57,000 decrease in the total taxable assessment. The January 1, 2012, total taxable assessed value after the exemption is \$191,700.

The Needles appealed this assessment to the Warren County Board of Review on the grounds that 1) the assessment was not equitable compared with the assessments of other like property under

Iowa Code section 441.37(1)(a)(1); 2) the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2); 3) the property is not assessable, is exempt from taxes or is misclassified under section 441.37(1)(a)(4), stating that 38 of the 40 acres is now in forest reserve; 4) there is an error in the assessment under section 441.37(1)(a)(5), essentially reasserting the claim of over-assessment; and 5) there was a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3).

The Board of Review denied the protest. The Needles then appealed to this Board reasserting their claims. We note that although the forest reserve exemption resulted in a reduction to the taxable assessed value, the total assessed value placed on the property by the assessor did not change from January 1, 2011, to January 1, 2012. Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal is whether there has been a change in value since the last reassessment. Iowa Code §§ 441.35(2), 441.37(1)(b); *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). This is the only ground available in an “interim year,” like 2012, when the assessor has not changed the property’s value from the previous year. *Id.*

According to the property record card, the subject property is a one-story, frame home built in 2001. It has 1184 square-feet of above grade living area; a full, unfinished, walkout basement; a 192-square-foot deck, and a 32 square-foot open porch. The subject site is 40.00 acres.

At hearing before this Board, Gene Needles testified and offered evidence in support of the claim that the subject property is over-assessed and the exemption adjustment is too low. In an effort to prove the land assessment is too high, Needles provided twenty-seven properties he believed to be comparable. All of the properties had sites ranging between 1.16 acres to 4.67 acres compared to his 40-acre site. This is because, in Needles’ opinion, only the two-acres used as the homestead should be

included in the site value. Essentially, Needles believes the assessment should exclude the 38 acres in the forest reserve.

One of Needles' primary beliefs is that the \$72,800 assessment allocation of the "two-acres," which is not subject to the forest reserve exemption, is significantly higher than the assessments for the sites of the twenty-seven properties he submitted. Those properties have assessments between \$48,000 and \$53,300. However, we find flaw with this premise because the Needles have a 40-acre parcel. Regardless of the number of acres in forest reserve, the proper comparisons should be to similarly sized sites.

Gene Needles also expressed concern because he believes the parcel is "land-locked" since it lacks street frontage. The site is located at the edge of a larger development, which he co-owns. That development has private streets, which the Needles use to gain access to the subject site. Because the Needles does have access to the site via a private road, that Gene Needles has some ownership in, we do not find merit in this assertion.

Additionally, we note that of the twenty-seven properties the Needles provided, only three of them were recent sales (having sold in 2010 or 2011). The three properties sold between \$265,000 and \$320,000, and have site sizes ranging from 1.16 acre to 2.51 acres. Because the subject site is 40-acres and no adjustments were made for differences in the site sizes or for other differences that may exist; and, because the Needles did not provide an opinion of market value for the January 1, 2011, or January 1, 2012, assessment date, we give this evidence no consideration.

County Assessor Brian Arnold testified and provided evidence of how the land values were established in Warren County. Essentially, the County relies on a tiered valuation system based on research conducted by the Assessor's Office when a revaluation of rural properties occurred in 2011. It gathered data of vacant acreage sites and analyzed it by location (three tiers in the county); by sites less than nine acres, sites between nine to eighteen acres, and sites over eighteen acres; and by sites on

paved or gravel roads. The Board of Review submitted Exhibit 2, which is a map of Warren County showing the tiers, and a legend explaining the site allocations and assigned values. Arnold explained, based upon the analysis, sites in the subject's tier (location) with more than eighteen acres were valued at \$48,000 for the first one-and-a-half acres (or \$72,000) and \$1500 for each additional acre. The formula for the subject site of 40 acres is as follows:

$$\begin{aligned} &\$48,000 \times 1.5 \text{ acres} = \$72,000 \text{ (first 1.5 acres)} \\ &38.5 \text{ remaining acres} \times \$1500 = \$57,750 \text{ (rounded to \$58,800)} \\ &\$72,000 + \$58,800 = \$129,800 \text{ Total 40-acre Site Value} \end{aligned}$$

After determining the total site value, Arnold then applied the forest reserve exemption on 38 acres. He applied the same formula using a \$1500 value for the additional 38 acres, which results in a \$57,000 exemption. He removed this value from the total site value of \$129,800 to arrive at a value of \$72,800 for the two-acre homestead that is not exempt from taxation.

Exhibit 2 also explains why the values of the twenty-seven properties the Needles considered were significantly lower. All of those sites were *less than* nine acres. The Needles' map (Exhibit A) indicates all are located in close proximity to the subject (or the same tier on Exhibit 2). Further assuming they were all rated "normal," and situated on gravel roads, they were assessed at \$48,000 for the *first acre only* (compared to the subject sites first one-and-a-half acres carrying a higher value) and \$1500 for each additional acre. Therefore, a two-acre site would have a value of \$48,000, plus \$1500 for a total of \$49,500, compared to the subject's first two acres.

The Needles' comparison of two acre sites with the subject property's two-acre, non-exempt portion is contrary to assessment procedure and Iowa law. Exemptions reduce a property's *total* assessed value proportionate to the value of the exempt property. Iowa Admin. Rule 701-80.54(427); *see American Legion, Hanford Post 5 v. Cedar Rapids Bd. of Review*, 646 N.W.2d 433 (Iowa 2002); Letter of Findings from Michael L. Cox, Policy Section, Iowa Dept. of Revenue (April 10, 1985) (stating that "If two acres of a forty-acre tract qualify for exemption as a forest reservation, the

assessed valuation of the tract of land is reduced by the amount of the value attributed to those acres. . . . [t]he result of the exemption would be to reduce the total valuation of the forty acre tract). This means the assessor must value the Needles' forty-acre tract consistent with other forty-acre tracts and, after doing so, apply the exemption to the portion of the property that qualifies as a forest reserve.¹ To do otherwise would be to create multiple sub-parcels within one legally recognized tract of land, each with its own separate assessment. This would effectively result in a de facto subdivision of the property for assessment purposes even though the Needles have not taken the steps necessary to legally subdivide the property.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as

¹ Exhibit X, provided by the Needles, demonstrates similar application of the forest reserve exemption was applied by the assessor's office.


the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

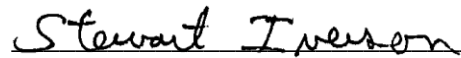
Although Needles offered numerous properties for comparison, only three had sold recently. Moreover, all three had significantly smaller site sizes compared to the subject property. Needles did not adjust the sales for differences and did not conclude a market value for the subject property as of January 1, 2011, or January 1, 2012. *Both values are required to support a claim of change in value.* *Id.* at 450.

The APPEAL BOARD ORDERS the assessment of the property owned by Gene and Kathleen Needles located at 10811 Cleveland Trail, Norwalk, Iowa, of \$248,700, and an exempt value of \$191,700, as of January 1, 2012, set by the Warren County Board of Review, is affirmed.

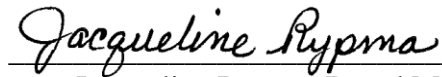
Dated this 24th day of May, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on May 24, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other


Signature _____